

NOV - 6 2006

PROB 12B
(7/93)**United States District Court**For The Northern Mariana Islands
By _____
(Deputy Clerk)

for

*the Northern Mariana Islands***Report for Modifying the Conditions or Term of Supervision
with Consent of the Offender***(Probation Form 49, Waiver of Hearings is Attached)*Name of Offender: **Vicente Aldan Sablan**Case Number: **CR 04-00020-001**

Name of Sentencing Judicial Officer: Alex R. Munson

Date of Original Sentence: September 29, 2004

Original Offense: Distribution and Possession with Intent to Distribute a Controlled Substance, 21 U.S.C. §§ 841(a)(1) and 841 (b)(1)(C).

Original Sentence: 24 months imprisonment and three years of supervised release with conditions to include that the defendant comply with the standards conditions of supervised release; participate in drug treatment program approved by the U.S. Probation; refrain from the use of all alcoholic beverages; perform 200 hours of community service; pay \$100 special assessment fee. The defendant commenced supervised release on February 28, 2006.

Type of Supervision: Supervised Release Date Supervision Commenced: February 28, 2006

Assistant U.S. Attorney: Timothy E. Moran Defense Attorney: Joseph N. Camacho

PETITIONING THE COURT☐ To extend the term of supervision _____ years, for a total term _____ years.☒ To modify the conditions of supervision as follows:

1. That the defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, **not to exceed eight tests per month**, as directed by the probation officer;
2. That the defendant shall perform an additional 100 hours of community service under the direction of the United States Probation Office.

Report for Modifying the
Conditions or Term of Supervision
with Consent of Offender
Page 2

On September 2, 2005, the Ninth Circuit, in United States v. Stephens, No. 04-50170, addressed 18 U.S.C. § 3583(d) supervised release and 18 U.S.C. § 3563(a)(5) probation mandatory testing conditions which requires that the district court determine the maximum number of mandatory drug tests. The Ninth Circuit held that because the statute requires the district court to determine the maximum number of drug tests under the mandatory condition, transferring this duty to the probation officer was an improper delegation of Article III judicial power.

To assist the Court in determining the appropriate number of drug tests, the undersigned officer has evaluated Vicente A. Sablan's history of drug use, and the drug detection period of his drug of choice. As methamphetamine is considered one of the drugs of choice and has a normal detection period of four days or less, it is recommended that the maximum number of tests the court order per month be set at eight. This will allow for adequate time intervals between tests which will help facilitate the detection of use. It also provides for enough additional tests so that the pattern of testing will not be predictable to the offender.

On October 23, 2006, Mr. Sablan reported to this Officer and admitted to smoking "ice" on October 20, 2006. This is not Mr. Sablan's first time to relapse. On August 28, 2006, he tested presumptive positive for "ice" and admitted to smoking the drug on August 23 and 25, 2006. He voluntarily signed an Admission of Drug Use form for his illegal use of the drug, and asked for help to cope with his addiction. Mr. Sablan was returned to Day One Phase I of the Substance Abuse Treatment Program.

To address the issues of Mr. Sablan's admission of drug use and the implications of United States v. Stephens Ninth Circuit No. 04-50170, it is respectfully requested that the Court modify supervised release conditions as follows:

That the defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, **not to exceed eight tests per month**, as directed by the probation officer;

That the defendant shall perform an additional 100 hours of community service under the direction of the United States Probation Office.

Reviewed by:

ROSSANNA VILLAGOMEZ-AGUON

U.S. Probation Officer
Supervision Unit Leader

Date: 11/6/06

Respectfully submitted,

by:

MARGARITA WONENBERG

U.S. Probation Officer

Date: 11/06/06

THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above
- ☒ The Modification of Conditions as Noted Above
- ☐ Other


HON. ALEX R. MUNSON

Chief Judge
District of the Northern Mariana Islands

11-6-06

Date

PROB 49
(3/89)

United States District Court

for

District of Northern Mariana Islands

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**


I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:


That the defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer;

That the defendant shall perform an additional 100 hours of community service under the direction of the United States Probation Office

Witness:


Margarita D.L.G. Wonenberg
U.S. Probation Officer

Signed:


Vicente A. Sablan
Probationer or Supervised Releasee

10/24 '06

Date